

Navigating Your Legacy: A Guide to Estate Planning for Seniors


Presented by
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GOALS OF ESTATE PLANNING

Give what I have -
to whom I want, the
way I want, when I
want

Avoiding
probate court

Maximize assets
distributed to your
loved ones

Care for self during
lifetime (incapacity,
health and financial)

Fulfill your
charitable intentions

Minimize taxes due
at your death

Care for/protect others
(surviving spouse and
children at death)

Pass on values & ideals
to children and
grandchildren

Protect assets from
creditors, divorce,
bankruptcy for
generations to come

Downsides to Dying “Intestate”

Assets distributed according to state law – could go to people you don’t want

Kids get inheritance at age 18 and “outright” - could lose in a divorce or spend unwisely

Spouse could remarry after your death, leaving money to a new spouse and kids

Judge will decide who raises your minor children

Judge will decide who is in control of your children’s money

Probate court guaranteed

WHAT IS AN “ESTATE”?



Bank accounts,
checking,
savings

Car,
boat,
motorcycle

Brokerage
accounts,
stocks, bonds

Life
insurance
proceeds

House,
other real
estate

Retirement
IRA,
401(k)

Coin
collection,
jewelry, artwork

Intellectual
property

Business
interests
(LLC, etc.)



THE IMPORTANCE OF TITLE

There are **THREE WAYS** you can own property at the time of your death...

THE IMPORTANCE OF TITLE



INDIVIDUALLY

(just one owner)

Bank account in your name alone even though you are married

JOINTLY

(two or more owners)

Bank account held jointly between Husband and Wife, Mother and Daughter, etc.

BY CONTRACT

(pursuant to a set of instructions)

Life insurance policy payable to spouse or children

THE RISK WITH JOINTLY OWNED ASSETS



- Avoid probate when first owner dies
- But still have to go through probate when the second owner dies, or if you die at the same time

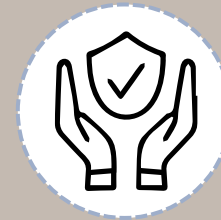
THE RISK WITH BENEFICIARY DESIGNATIONS



- Only go to named beneficiary if they are over the age of 18 and alive
- Proceeds paid with no rules or guardrails



OPTION 1:
Last Will & Testament



OPTION 2:
Revocable Living Trust

LAST WILL AND TESTAMENT



Better than nothing!



Nominate guardians for your children



Nominate beneficiaries for assets owned by you individually



Nominate executor to wrap up your affairs

WHERE A WILL FAILS

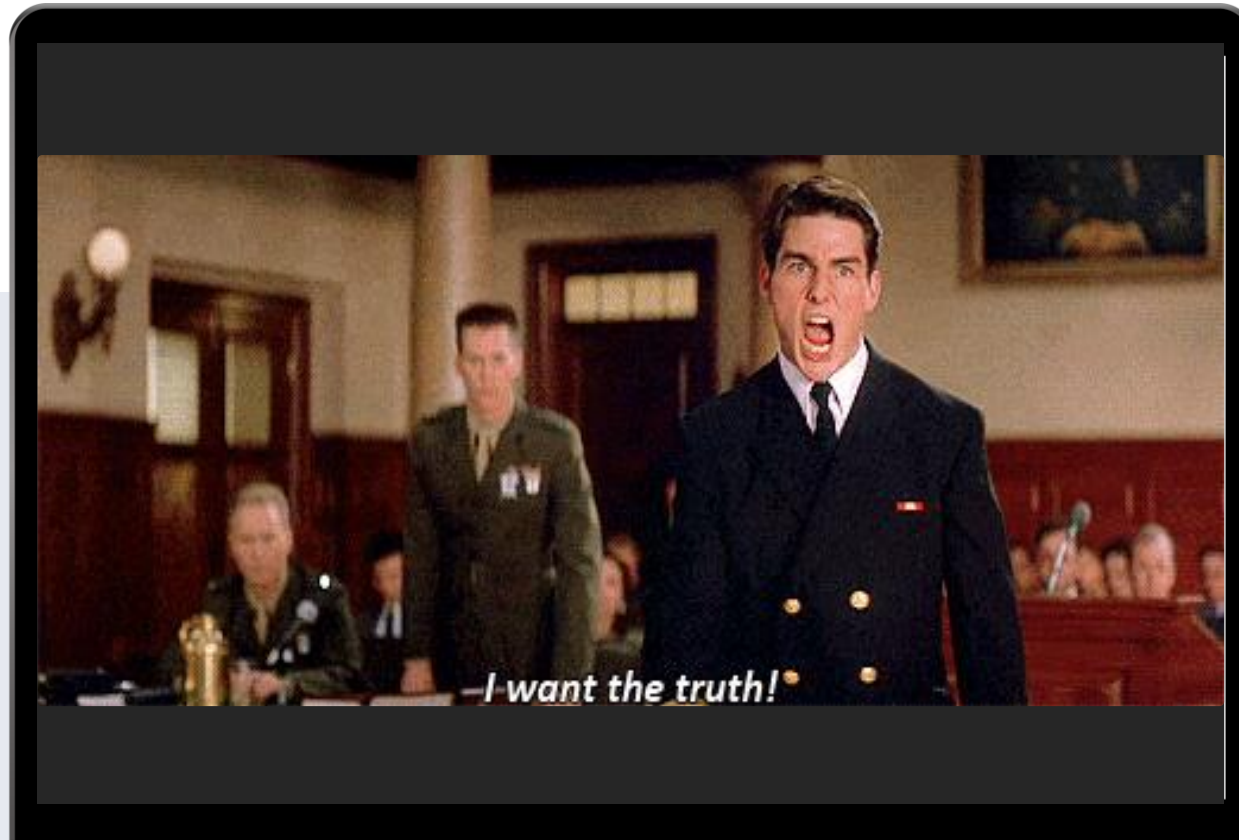
- » Wills have to go through probate court
- » They do not provide for incapacity
- » Problematic if they cross state lines
- » Kids get money at 18
- » Do not control most property
- » Provide direction and protection for a short time at your death:
 - » Not during your life
 - » Not for the lives of the surviving spouse, children, and grandchildren





**Where there's a will,
there's a **probate!****

PROBATE COURT = BAD

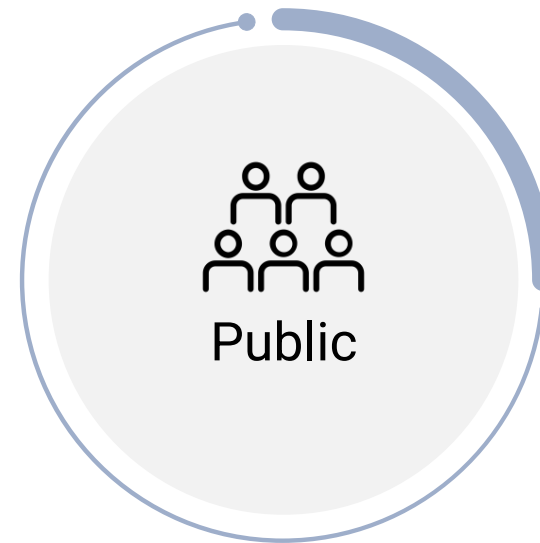
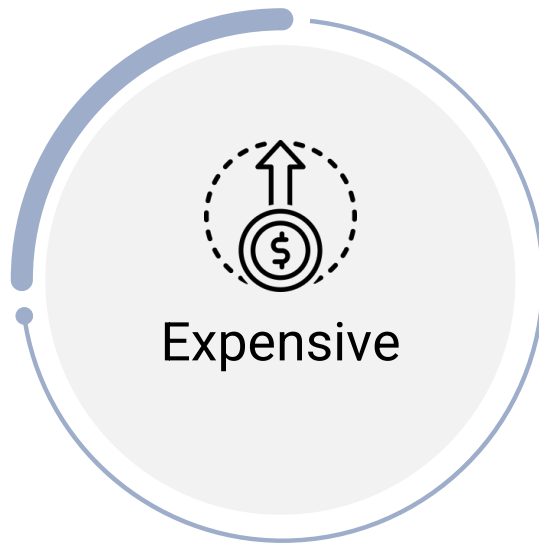


WHAT IS PROBATE COURT?

- 1 Court appoints Executor
- 2 Publish notice in papers to creditors
- 3 Inventory and appraise assets
- 4 Distribute assets
- 5 Everything reported to judge
- 6 Need court permission for everything
- 7 Have to hire a lawyer



3 DOWNSIDES TO PROBATE



A person wearing a blue denim shirt is sitting at a wooden desk, writing on a white document with a pen. The background is softly blurred, showing a window with light coming through.

PROBATE IS EXPENSIVE




2% to 7+% of the
estate assets can be
lost in the probate
process

CALCULATE YOUR PROBATE ESTATE



Family Home FMV	\$400,000
Rental Property FMV	\$100,000
Stocks, Bonds, Bank Accts	\$250,000
Life Insurance Payable to Minor	\$1,000,000
401(k) Payable to Minor	\$50,000
TOTAL	\$1,800,000



CALCULATE YOUR PROBATE ESTATE



Family Home FMV	\$400,000
Rental Property FMV	\$100,000
Stocks, Bonds, Bank Accts	\$250,000
Life Insurance Payable to Minor	\$1,000,000
401(k) Payable to Minor	\$50,000
TOTAL	\$1,800,000
x 2%	(\$36,000)

PROBATE IS TIME-CONSUMING



Takes 12-18 months or more



Even simple estates can take a long time



Assets are frozen until a judge releases them



PROBATE IS PUBLIC



Wills are public record



Anyone can go to the courthouse
and see your assets and heirs



Leaves your minor children vulnerable

WHEN IS A WILL-BASED PLAN APPROPRIATE?



Estates less than \$75,000 in New York are eligible for a simplified probate process

Is easy and inexpensive

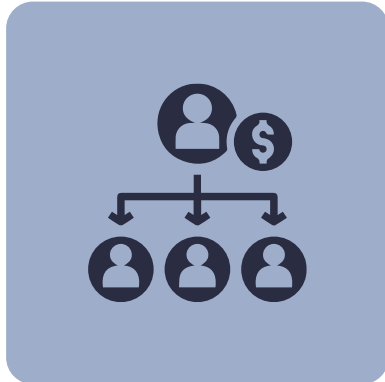
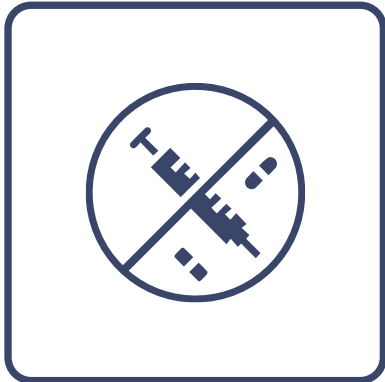
In this case, probate avoidance is not the goal, so a Will is sufficient



**A BETTER
OPTION:
REVOCABLE
LIVING TRUST**



OPTION #2: REVOCABLE LIVING TRUST



Will on steroids!



Name beneficiaries for your assets in the Trust



Trust is revocable – you can change or amend



You are trustee during life – have total control

OPTION #2: REVOCABLE LIVING TRUST



Everything you own now is outside of your Trust



Move your assets into your Trust by retitling them to your Trust



But still maintain control over assets in Trust



The benefit: Everything in your Trust bypasses probate when you pass away!

WHAT IS A TRUST, ANYWAY?!

An agreement that spells out the rules you want followed for the assets in trust when you pass away.




TRUST EXAMPLE - BOB



Bob has
\$100,000 in a
bank account



He wants to
leave it to his
son Fred when
he dies



BUT he wants
Fred to be:

- ✓ At least 25
- ✓ Graduate college



Bob
needs a
trust!

3 ROLES IN EVERY TRUST

A person in a white lab coat is seated at a desk, holding a grey pen and reviewing a document. The document is open, and the person's hands are visible. The background is slightly blurred, showing a desk with a laptop and other papers. The overall scene suggests a professional or medical setting where a document is being reviewed or signed.

Grantor

person who contributes assets to trust

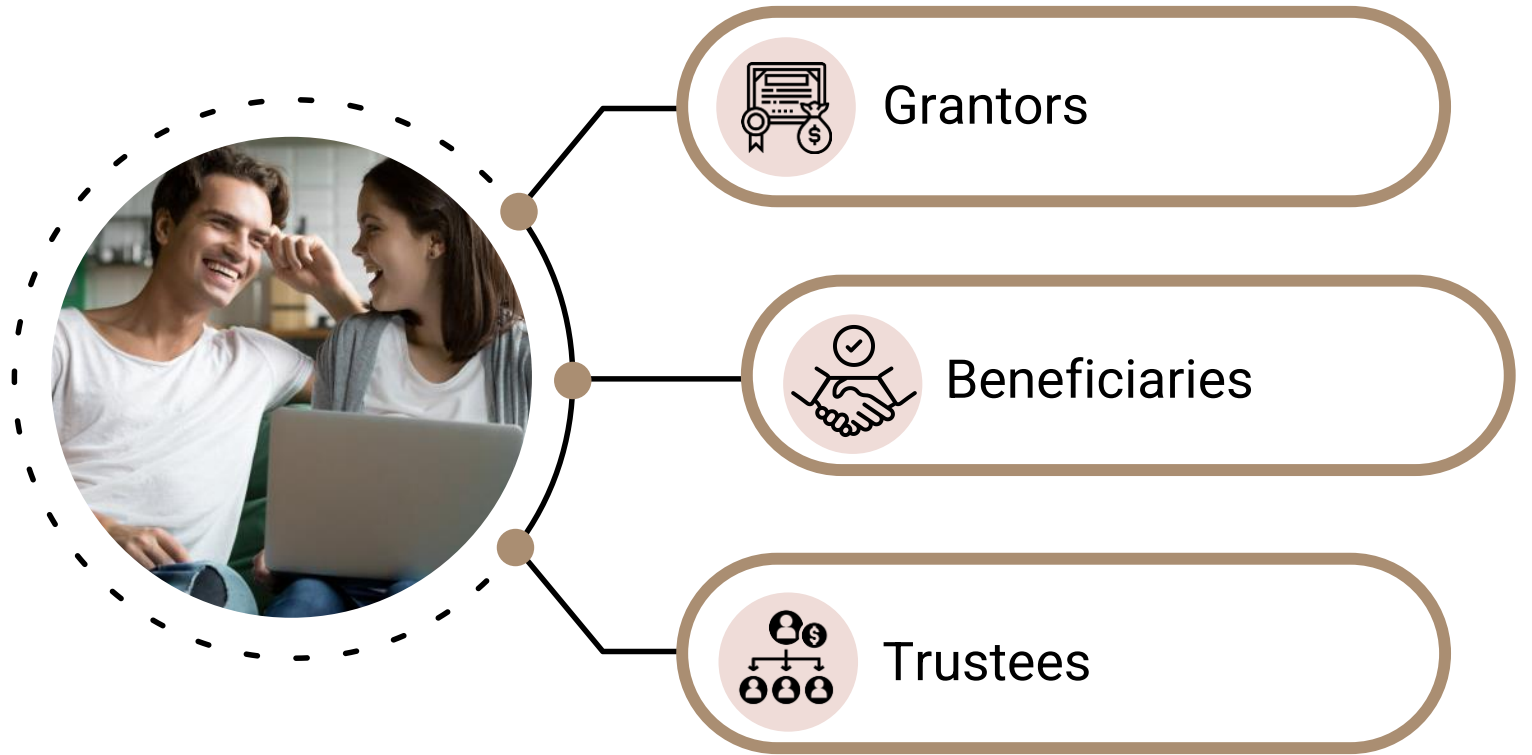
Trustee

person who manages the trust assets

Beneficiary

person who is entitled to the assets

THE GIFT OF TOTAL CONTROL HARRY AND WENDY OCCUPY ALL 3 POSITIONS



THE MAGIC IS HOW YOU HOLD TITLE TO YOUR ASSETS





A REVOCABLE LIVING TRUST IS LIKE A KID'S BACKPACK



**IT AVOIDS PROBATE
FOR ALL THINGS INSIDE
THE BACKPACK!**



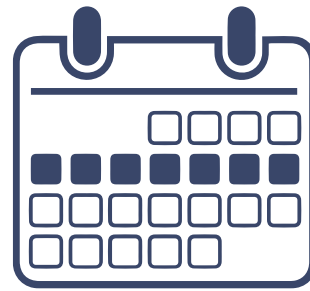
TRANSFER ASSETS INTO THE TRUST = TRUST FUNDING



TRUST SOLVES ALL THE PROBLEMS THAT COME WITH A WILL



Won't lose 2-7% of
your estate in
probate court



Assets go to
your family in
weeks, not years



Totally private
during life and
at death

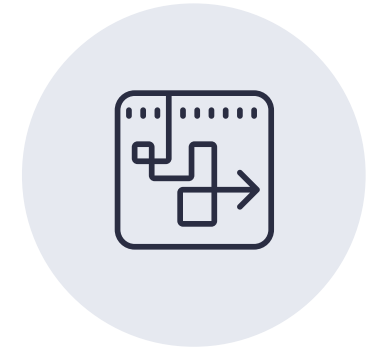
OTHER BENEFITS OF A REVOCABLE LIVING TRUST



Easily changed



Valid in every state



Difficult to attack



Not a separate
tax identity



Not difficult to
create and maintain



Creates one “backpack”
for ALL your property

The SECURE Act and Revocable Living Trusts



- **Elimination of Stretch IRA:**
 - Most non-spouse beneficiaries must withdraw inherited retirement accounts within ten years.
- **Eligible Designated Beneficiaries:**
 - Exceptions to the ten-year rule for spouses, minor children, disabled or chronically ill individuals, and those within ten years of the decedent's age.
- **Impact on Trusts:**
 - **Conduit Trusts:** Must distribute all received retirement funds to beneficiaries within ten years, potentially accelerating tax liability.
 - **Accumulation Trusts:** Can retain distributions within the trust but may face higher trust tax rates.

WHAT ABOUT ESTATE TAXES?



- If you die with more than a certain amount of money, your estate may have to pay estate taxes
- Estates more than \$6,940,000 are subject to NY state estate tax
- Estates more than \$27,220,000 for a married couple are subject to Federal estate tax (\$13,610,000 for an individual)

Medicaid Asset Protection Trusts



- Medicaid Asset Protection Trusts are specifically designed to protect assets from being counted towards Medicaid eligibility
- Assets placed in the trust are not considered personal assets for Medicaid qualification purposes
- Irrevocable

Charitable Remainder Trusts



- Assets placed into an irrevocable trust
- Provides income to donor (or other beneficiaries) for life or a specified term
- After that term ends, remaining assets go to chosen charity
- Benefits include immediate tax deductions for donor, a steady stream of income, and eventual support of charity



<https://calendly.com/lighlaw/pmps>

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